

May 4, 2001
OPINION 00-423-A

Mr. Risley C. Triche
Chairman of the Indigent Defense
Assistance Board
P. O. Drawer 339
Napoleonville, Louisiana 70390

Dear Mr. Triche:

You have requested a clarification of Opinion Number 00-423 on behalf of the Indigent Defense Assistance Board (hereinafter referred to as the "Board"), regarding Louisiana's Open Meetings Law. Specifically, you ask: Is the Open Meetings Law violated if a number of Board members meet in a public place, noticed and open to the public and a "few" members attend the meeting through teleconferencing?

LSA-R.S. 42:5 provides:

1Every meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:6, R.S. 42:6.1, or R.S. 42:6.2.

2Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of R.S. 42:4.1 through R.S. 42:8.

3All votes made by members of a public body shall be viva voce and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document.

The "viva voce" voting requirement in the above cited provision is a "living voice" or "live voice" requirement. This office is of the opinion that a vote by viva voce requires the person voting to be physically present. An appearance by telephone or video telephone does not satisfy this requirement. This reasoning is reinforced by LSA-R.S. 42:7.1 which requires the written minutes of a public body to include the "members of the public body recorded as either present or absent." In order to establish a quorum of a public body, it is the opinion of this office that the physical presence of a simple majority of the total membership of that body is required.

While we regret any limitations that may cause Board members to miss a meeting of the Indigent Defense Assistance Board, deliberation or action via teleconferencing would not satisfy the presence requirement for purposes of the Open Meetings Law.

Mr. Risley C. Triche
OPINION 00-423A
Page 2

I trust that this addresses your concerns and clarifies that a meeting via teleconferencing by members of the Indigent Defense Assistance Board is not in conformance with the Open Meetings Law.

Yours very truly,

RICHARD P. IEYOUB
ATTORNEY GENERAL

ANN EVANS WALL
Assistant Attorney General

RPI/AEW;dsc

OPINION 00-423-A

90-B-4 – Public Meeting, State and Local

LSA-R.S. 42.5, 42:7.1

Deliberation or act on by teleconferencing would be a violation of the open meetings law.

Mr. Risley C. Triche
Chairman of the Indigent Defense
Assistance Board
P. O. Drawer 339
Napoleonville, Louisiana 70390

Date Received:
Date Released: May 4, 2001

ANN EVANS WALL
Assistant Attorney General